

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PRISCELLA SAINTAL-SMITH,
Plaintiff(s),
v.
ALBERTSON'S, LLC, et al.,
Defendant(s).

Case No.: 2:18-cv-01478-APG-DJA

ORDER

Pursuant to 28 U.S.C. § 1915 Plaintiff is proceeding in this action *pro se* and has been granted authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis*. (ECF No. 5). The Court granted Plaintiff leave to proceed on the Amended Complaint on October 16, 2019. (ECF No. 8). It further ordered her to furnish the U.S. Marshal with the required Form USM-285 within twenty days in order to serve Defendant. (*Id.*).

On December 17, 2019, Plaintiff filed a Motion to Extend Time (ECF No. 13) in which she requests 45 days from December 1, 2019 to file “any motions, pleadings and responses.” Plaintiff also filed an Affidavit (ECF No. 15) in support of her Motion on December 17, 2019. She indicates that she was imprisoned on October 27, 2019 and has been unable to obtain copies of filings in this case and needs to change her address. (ECF NO. 15). It is unclear what deadline Plaintiff seeks to extend as there is no pending deadline to file motions, pleadings, and responses. To the extent that Plaintiff seeks an extension to provide the U.S. Marshal with the required Form USM-285 for service of her Amended Complaint, the Court will grant her an extension of twenty days from today.

Plaintiff also filed a Motion for Appointment of Counsel (ECF No. 14) on December 17, 2019. She cites case law related to appointment of counsel in criminal cases. However, civil

1 litigants do not have a Sixth Amendment right to appointed counsel. *Storseth v. Spellman*, 654
2 F.2d 1349, 1353 (9th Cir. 1981). In very limited circumstances, federal courts are empowered to
3 request an attorney to represent an indigent civil litigant. For example, courts have discretion,
4 pursuant to 28 U.S.C. § 1915(e)(1), to “request” that an attorney represent indigent civil litigants
5 upon a showing of “exceptional circumstances.” *Ageyman v. Corrections Corp. of America*, 390
6 F.3d 1101, 1103 (9th Cir. 2004). The circumstances in which a court will make such a request,
7 however, are exceedingly rare and require a finding of extraordinary circumstances. *United
8 States v. 30.64 Acres of Land*, 795 F.2d 796, 799-800 (9th Cir. 1986). The difficulties inherent in
9 proceeding pro se do not qualify as exceptional circumstances. *Housewright*, 900 F.2d 1332,
10 1335-1336 (9th Cir. 1990). Any pro se litigant “would be better served with the assistance of
11 counsel.” *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997) (citing *Wilborn*, 789 F.2d at
12 1331).

13 To determine whether the “exceptional circumstances” necessary for appointment of
14 counsel are present, courts evaluate (1) the likelihood of plaintiff’s success on the merits and (2)
15 the plaintiff’s ability to articulate his claim *pro se* “in light of the complexity of the legal issues
16 involved.” *Agyeman*, 390 F.3d at 1103 (quoting *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th
17 Cir. 1986)). Neither of these factors is dispositive and both must be viewed together. *Wilborn*,
18 789 F.2d at 1331. Here, the Court does not find any exceptional circumstances. Upon review of
19 Plaintiff’s Amended Complaint, it is not clear that Plaintiff’s claims are likely to succeed on the
20 merits. Further, the claims, such as they are, are not complex. The Court will therefore deny the
21 motion.

22 IT IS HEREBY ORDERED that Plaintiff’s Motion to Extend Time (ECF No. 13) is
23 **granted in part and denied in part.**

24 IT IS FURTHER ORDERED that Plaintiff shall have twenty days in which to furnish the
25 U.S. Marshal with the required Form USM-285.¹ Within twenty days after receiving from the
26 U.S. Marshal a copy of the Form USM-285, showing whether service has been accomplished,
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28 ¹ The USM-285 form is available at www.usmarshals.gov/process/usm285.pdf.

1 Plaintiff must file a notice with the court identifying whether defendant was served. If Plaintiff
2 wishes to have service again attempted on an unserved defendant, a motion must be filed with
3 the Court identifying the unserved defendant and specifying a more detailed name and/or address
4 for said defendant, or whether some other manner of service should be attempted.

5 IT IS FURTHER ORDERED that Plaintiff's Motion for Appointment of Counsel (ECF
6 No. 14) is denied.

7 Dated: February 26, 2020

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9 DANIEL J. ALBREGTS
10 UNITED STATES MAGISTRATE JUDGE

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